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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/28/94 09/27/94 NAKAMICHI

EXAMINER

MITCHELL

ART UNIT PAPER NUMBER

9

THOMAS P. MORRISON
MORRISON LAW FIRM
145 NORTH FIFTH AVENUE
MOUNT VERNON NY 10550

ESM1/0403

2512

DATE MAILED:

06/05/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 2-29-96 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-9 + 27-44 are pending in the application.
Of the above, claims — are withdrawn from consideration.
2. ☒ Claims 10-26 have been cancelled.
3. ☐ Claims — are allowed.
4. ☒ Claims 1-9 + 27-44 are rejected.
5. ☐ Claims — are objected to.
6. ☐ Claims — are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on —. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on —, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed —, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. —; filed on —.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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Reissue Declaration

1. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. § 1.175(a)(5).

Every departure from the original patent represents an "error" in said original patent under 35 U.S.C. 251 and must be particularly and distinctly specified and supported in the reissue oath or declaration under 37 CFR 1.175.

Applicants newly presented claim 43 includes a change which is not particularly and distinctly specified and supported in the reissue oath or declaration. The change is at lines 12-13 "in said first substantially straight line".

Additionally, page 31 of the declaration recites changes which are not included in new claim 43 (which is added to eliminate the alleged errors in claim 8):

a) Claims 8 and 43 do not include "disk conveying means" or "disk-reading position";

b) A clause reciting "means for moving said disk from said first position to said disk reader" has not been added to claim 43;

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c) Page 31, line 19 refers to claim 41 in discussion of claims 8 and 43;

d) The recitation of "said disk reader" in the next-to-last clause of issued claim 8 has not been changed to read --a first position of said disk storage and playback device--.

Claim Objections

2. Claims 2, 3, 5-7 and 37-42 are objected to because of the following informalities:

a) Claims 2, 37 and 38, line 6 "is" should be --are--;

b) Claims 5, 7, 40 and 42, line 5 the "," after "nondetachably" should be deleted;

Appropriate correction is required.

Subsequent Amendments

3. Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 C.F.R. § 1.121(e).

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Claim Rejections - 35 USC § 251

4. Claims 1-9 and 27-44 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 8, 9, 27-36, 43 and 44 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Kawakami (US 4,567,584).

Response to Amendment

7. Applicant's arguments filed 2/29/96 have been fully considered but they are not deemed to be persuasive.

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Applicant asserts (page 16) that Kawakami does not show "first disk conveying means for transporting a selected one of said disks from said magazine to said disk reading position along a first straight line path in a plane of said disk" and "second disk conveying means for transporting a disk not stored in said magazine in a second straight line path beginning outside said disk storage and playback device to said disk reading position."

The Examiner maintains that Kawakami does show transporting the disk in first and second straight line paths as claimed. Figure 18(a) shows the straight line paths of the disk. Although the disk is moved slightly in a direction perpendicular to the path to engage the reader (DC6-DC7), Applicant's specification is consistent with this interpretation of the claimed limitations (Note Col. 5, line 55-Co. 6, line 66 and Figure 10). Additionally, position DC6 of Kawakami can be characterized as a "disk-reading position" because that is the position, along the path, where the disk would be accessed by the reader. Furthermore, as long as part of the path of Kawakami, between the magazine or outside and the reading position, is a straight line, it would appear to meet the claimed limitations. (Substantially similar responses apply to each of Applicant's arguments on pages 17-19).

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Conclusion

8. **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul J. Ditmyer whose telephone number is (703) 308-1611.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.


Paul J. Ditmyer
Art Unit 2512
30 May 1996



ROBERT S. TUPPER
PRIMARY EXAMINER
GROUP 2500